PROB 12C(d)
(03/06)

July 29, 2008

FILED

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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY: DEPUTY

UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF CALIFORNIA

Petition for Warrant or Summons for Offender Under Supervision

Name of Offender: Jose TORRES-Garcia (Spanish) **Dkt No.:** 08-CR-0585-002-JAH

Reg. No.: 07227-298

Name of Sentencing Judicial Officer: The Honorable John A. Houston, U.S. District Judge

Date of Sentence: April 7, 2008

Original Offense: 8 U.S.C. § 1324(a)(1)(A)(iii) and (v)(II), Harboring Illegal Aliens and Aiding and Abetting, a Class D felony.

Sentence: 60 days custody; 2 years supervised release. *(Special Condition: if deported not reenter the United States; supervision waived upon deportation.)*

Type of Supervision: Supervised Release **Date Supervision Commenced:** April 14, 2008

Asst. U.S. Atty.: Michael Wheat **Defense Counsel:** Stephen D. Lemish (Appointed) (619) 444-5525

Prior Violation History: None.

PETITIONING THE COURT

TO ISSUE A NO-BAIL BENCH WARRANT

The probation officer believes that the offender has violated the following condition(s) of supervision:

CONDITION(S)	ALLEGATION(S) OF NONCOMPLIANCE
(Mandatory Condition) Not commit another federal, state, or local crime. *(nv1)*	1. On or about June 26, 2008, Mr. Torres-Garcia attempted entry into the United States subsequent to deportation, in violation of 8 U.S.C. § 1326, as evidenced by the complaint filed in U.S. District Court, Southern District of California, Mag. Dkt. No. 08-MJ-2131.
(Special Condition) If deported, or returned to Mexico, not reenter the United States illegally and report to the probation officer within 24 hours of any reentry to the United States. *(nv35)*	

Grounds for Revocation: I have received and reviewed the Complaint and the Probable Cause Statement, which confirm the following: On the above date, Mr. Torres-Garcia was one of six subjects positioned on the north side of the U.S./Mexico boundary line. U.S. Border Patrol Agents observed the subjects attempting to get over the border fence with the use of a ladder. The agents directed them to return to Mexico or submit to arrest. Three of the individuals retreated back to Mexico while the others remained north of the boundary line and began challenging the agents by shouting profanities and displaying vulgarities. The main aggressor was identified as Mr. Torres-Garcia, whom the agents recognized due to his previous involvement in alien smuggling activity. The individuals ignored the agents repeated verbal commands, which prompted the agents to use a service-issued pepper ball launcher to persuade the individuals to retreat. The three retreated, but proceeded to collect rocks from the ground and throw them at the agents. The agents retreated to find cover and observed the group moving north again across the U.S./Mexico boundary line toward the agents' vehicle. Later, it was discovered that two windows on Border Patrol service vehicle had been shattered, and a bag containing agency issued binoculars had been taken. Although Mr. Torres-Garcia was not arrested, the agents were later able to identify him in a photo line-up as one of the three individuals encountered on the north side of the U.S./Mexico boundary line. Immigration records revealed that Mr. Torres-Garcia was previously deported from the United States on April 15, 2008.

On July 14, 2008, a complaint was filed in the U.S. District Court, Southern District of California, Magistrate Docket No. 08-MJ-2131, charging Mr. Torres-Garcia with Attempted Entry After Deportation, in violation of 8 U.S.C. § 1326. A warrant for arrest was ordered on July 17, 2008.

U.S. Probation Officer Recommendation:
If found in violation, that supervised release be revoked and the offender be sentenced to 10 months custody, consecutive to any sentence he may be serving, pursuant to USSG §7B1.3(f), p.s. (An Expanded Violation Worksheet, 12CW(d), has been attached for the Court's review.)

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: July 29, 2008

Respectfully submitted:

by ______________________
DeAnna Vargas
Senior U.S. Probation Officer
(619) 557-6503

Reviewed and approved:

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Sean Quintal
Supervising U.S. Probation Officer

sjl

Attachments

THE COURT ORDERS:

JAH A NO-BAIL BENCH WARRANT BE ISSUED BASED UPON A FINDING OF PROBABLE CAUSE TO BRING THE OFFENDER BEFORE THE COURT TO SHOW CAUSE WHY SUPERVISED RELEASE SHOULD NOT BE REVOKED FOR THE ALLEGED VIOLATIONS.

_______ Other ______________________

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The Honorable John A. Houston
U.S. District Judge

8-4-08
Date